

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

In re Patent Application of

BEAN et al.

Att'y. Ref.: 3638-115 (AMK)

Serial No. 10/786,164

TC/A.U.: 3634

Filed: February 26, 2004

Examiner: A. Chin Shue

For: BOOM LIFT VEHICLE AND METHOD OF CONTROLLING
LIFTING FUNCTIONS

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June 29, 2009

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY BRIEF

In reply to the Examiner's Answer dated April 29, 2009, Appellants submit this Reply Brief under 37 C.F.R. §41.41.

As discussed throughout prosecution, an important feature of the claimed invention (e.g., in claim 1) resides in the structure and methodology wherein the tower boom nose pin follows one of a plurality of predetermined paths depending on an angle of the main boom. In the "Response to Argument" section in the Examiner's Answer, the Examiner for the first time attempts to address this subject matter.

Initially, the Examiner's Answer provides that "[t]he examiner notes that to maintain a desired predetermined path of the work equipment attached at the nose pin (tip/end) of his tower boom 8 (note fig. 2), the nose pin would follow a predetermined

path itself.” As noted previously, however, the path of movement in Bach is divided into individual movement sequences from one desired position to a next, and the desired positions are controlled by the operator or in an automatic mode are controlled to move the work equipment along a straight line. Reference numeral 8 in Bach in fact is not even a tower boom but is rather a telescoping or articulating boom.

With regard to the tower boom nose pin following one of a plurality of predetermined paths depending on an angle of the main boom, the Examiner’s Answer provides that “the examiner notes that while Bath [sic] does not teach a main boom the modification of Bath with either Bodtke or Ashworth, would have a main boom attached to his tower boom nose pin, it is further noted by the examiner that Bath’s method of control and his control system is with respect to his tower boom, and with a main boom as modified, his control system and path of his tower boom would also depend on the position of the main boom that position the work equipment.” Appellants respectfully submit that this “analysis” of the Bach patent is without foundation. The sections in the Bach patent referenced in the Examiner’s Answer relate primarily to maintaining an orientation of a load supported on a fork or the like regardless of a position or orientation of the vehicle. As would be apparent to those of ordinary skill in the art, the ability to maintain an orientation of a load is irrelevant to a plurality of predetermined paths followed by a tower boom nose pin depending on an angle of the main boom.

The Examiner’s Answer does not address Appellants’ arguments with regard to independent claim 3.

With regard to the single switch defined in claims 2, 9 and 11, the Examiner's Answer references sections in the Bach patent that purportedly disclose this subject matter. To the contrary, col. 8, line 25 in Bach references a switch that connects the position sensors with the data memory as soon as the operating device is in its neutral position. Col. 12 describes that starting values for each section of the path of movement are supplied by way of a switch 28. Col. 13 describes that when movement of the work equipment 9 is ended, the switch 28 is returned to the switch position illustrated by a broken line. None of these references in the Bach patent remotely relates to a single control switch that controls raising and lowering of the tower boom. The Office Action additionally references the Fulton patent, but this patent does not form part of this rejection.

In a subsequent rejection, claims 2, 9 and 11 are rejected as obvious over Bach in view of Bodtke or Ashworth and Fulton. As discussed in the Appeal Brief, the Fulton patent describes a "go button" switch 71 that similarly does not cause a machine to follow a predetermined path.

For the reasons discussed herein and in the Appeal Brief, reversal of the rejections is respectfully requested.

Respectfully submitted,

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